

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

Infinity Mortgage Company, Inc., and
Michael Reddington, Designated Broker,

Respondents.

NO. C-02-360-02-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO REVOKE LICENSES,
IMPOSE FINES, AND PROHIBIT FROM
PARTICIPATION IN THE MORTGAGE BROKER
INDUSTRY

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington ("Director") is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act ("Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation, and based upon the facts available as of January 17, 2003, the Director institutes this proceeding and finds as follows:

I. FACTS

1. Respondents:

A. Infinity Mortgage Company, Inc. is known to conduct the business of a mortgage broker at:

406 Willard St.
Quincy MA 02169

B. Michael Reddington was named designated broker in October 1999, and has continued as designated broker to date.

2. License: Infinity Mortgage Company, Inc. was licensed by the Department of Financial Institutions ("Department") to conduct business as a mortgage broker on October 31, 1999, and has continued to be licensed to date.

1 **3. Continuing Education Requirement:** Certificates of satisfactory completion of an approved continuing
2 education course were due to the Department no later than the last business day of October 2000, and October
3 2001. The Department notified Respondents of this requirement and of the due date by correspondence dated
4 September 10, 2000, for the year 2000, and prior to October 19, 2001, for the year 2001.

5 **4. Issuance of Directive:** On October 31, 2002, the Department issued a directive to Respondents requiring
6 the submission of certificates of satisfactory completion of approved continuing education courses.

7 **5. Failure to Submit Certificates:** To date, the Department has not received the required certificates due
8 from Respondents.

9 **II. GROUNDS FOR ENTRY OF ORDER**

10 **1. Continuing Education Requirement:** Pursuant to RCW 19.146.215 and WAC 208-660-042, the
11 designated broker of every licensee shall complete an annual continuing education requirement and file a
12 certificate of satisfactory completion no later than the last business day of the month in which the anniversary
13 date of the issuance of the licensee's license occurs.

14 **2. Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(iii), and WAC 208-660-160(19),
15 the Director may revoke a license for failure to comply with any directive or order of the Director and for failure
16 to provide a required certificate of satisfactory completion of an approved continuing education course.

17 **3. Authority to Charge Examination Fee:** Pursuant to RCW 19.146.228(2), and WAC 208-660-060(2), upon
18 completion of any examination of the books and records of a licensee, the Department will furnish to the licensee a
19 billing to cover the cost of the examination. The examination charge will be calculated at the rate of forty-six dollars
20 and twenty-six cents (\$46.26) per hour that each staff person devoted to the examination.

21 **4. Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(ii) and WAC 208-660-165, the Director
22 may impose fines on the licensee for failure to comply with any directive or order of the Director.

23 **5. Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the Director
24 may prohibit a covered individual from participation in the conduct of the affairs of a licensed mortgage broker.

1 **III. NOTICE OF INTENT TO ENTER ORDER**

2 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in
3 the above Facts and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 19.146.220.

4 Therefore, it is the Director's intention to ORDER that:

- 5 1. The mortgage broker license held by Infinity Mortgage Company, Inc. be revoked,
6 2. Respondents pay an examination fee to be calculated at \$46.26 per hour for each staff hour devoted to the
7 investigation; and
8 3. Respondents pay a fine of \$2,250 for failure to comply with a directive, calculated at \$75.00 per day for
9 30 days.
10 4. The designated broker, Michael Reddington, be prohibited from participation in the conduct of the
11 affairs of any licensed mortgage broker for a period of three (3) years.

11 **IV. AUTHORITY AND PROCEDURE**

12 This Statement of Charges and Notice is entered pursuant to the provisions of RCW 19.146.220,
13 RCW 19.146.221. and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The
14 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the
15 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
16 Statement of Charges and Notice of Intent to revoke License, Impose Fines, and Prohibit from Participation in the
17 Mortgage Broker Industry.

18 Dated this 16th day of January, 2003.

19 /S/

20 MARK THOMSON, DIRECTOR
21 DIVISION OF CONSUMER SERVICES
22 DEPARTMENT OF FINANCIAL INSTITUTIONS

23 Reviewed by:

24 /S/

25 Chuck Cross, Enforcement Chief

RCW 19.146.215 Continuing education – Rules. The designated broker of every licensee shall complete an annual continuing education requirement, which the director shall define by rule. [1997 c 106 § 11; 1994 c 33 § 11.]

RCW 19.146.220 Director – Powers and duties – Violations as separate violations – Rules. (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

...
(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

(iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or 19.146.265;

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

(i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) Failure to comply with any directive or order of the director;

...
(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(i) Any violation of 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

...
[1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

RCW 19.146.221 Action by director – Hearing – Sanction. The director may, at his or her discretion and as provided for in *RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter. [1994 c 33 § 13.]

RCW 19.146.223 Director – Administration and interpretation. The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005. [1994 c 33 § 2.]

RCW 19.146.225 Director – Rule-making powers. In accordance with the administrative procedure act, chapter 34.05 RCW, the director may issue rules under this chapter only after seeking the advice of the mortgage brokerage commission and to govern the activities of licensed mortgage brokers and other persons subject to this chapter. [1994 c 33 § 15; 1993 c 468 § 9.]

RCW 19.146.228 Fees – Rules – Exception. The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

- (1) An annual assessment paid by each licensee on or before a date specified by rule;
- (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter; and
- (3) An application fee to cover the costs of processing applications made to the director under this chapter.

Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation determines that no violation of this chapter occurred or when the mortgage broker provides a remedy satisfactory to the complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the authority of this chapter shall be deposited into the banking examination fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this chapter shall be deposited in the consumer services account. [1997 c 106 § 13; 1994 c 33 § 9.]

RCW 19.146.230 Administrative procedure act application. The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW. [1994 c 33 § 16; 1993 c 468 § 10.]

WAC 208-660-042(1) Continuing education requirement. (1) The principal or designated broker of a licensee must satisfactorily complete an approved continuing education course annually. Each licensee must file annually a certificate of satisfactory completion of an approved continuing education course by the licensee's principal or designated broker no later than the last business day of the month in which the anniversary date of the issuance of the licensee's license occurs.

WAC 208-660-060 Department's fees and assessments. . . .

(2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the examination. The examination billing will be paid by the licensee promptly upon receipt.

WAC 208-660-160 License application denial or condition; license suspension or revocation. The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

. . . (19) Has failed to provide a required certificate of satisfactory completion of an approved continuing education course.

WAC 208-660-165 Fines and penalties for violation of the Mortgage Broker Practices Act. Each mortgage broker and each of its principals, designated brokers, officers, employees, independent contractors, and agents shall comply with the applicable provisions of the Mortgage Broker Practices Act. Each violation of any applicable provision of the Mortgage Broker Practices Act, or of any order, directive, or requirement of the director may, at the discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's continuance of the violation is a separate and distinct offense. In addition, the director in his or her discretion may by order assess other penalties for a violation of the Mortgage Broker Practices Act.